Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Service Rules for the 698-746, 747-762 and 777-792 MHz Bands	)	WT Docket No. 06-150
	)	
Former Nextel Communications, Inc. Upper 700 MHz Guard Band Licenses and Revisions to Part 27 of the Commission's Rules	)	WT Docket No. 06-169
	)	
Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band	)	PS Docket No. 06-229
	)	
Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010	)	WT Docket No. 96-86

COMMENTS OF CELLULAR SOUTH LICENSES, INC.

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Executive Summary

The 700 MHz spectrum is uniquely suited to provide wireless service in rural areas because of its propagation characteristics. This spectrum travels farther and penetrates obstructions better than other spectrum. These characteristics make the 700 MHz spectrum the ideal vehicle for delivering advanced wireless services – including broadband – to rural areas.

The wireless industry has acquired spectrum in many auctions and lotteries over the past several years, yet large portions of rural America are still without wireless service. The 700 MHz auction is an important and final opportunity for wireless carriers to acquire spectrum suitable for delivering advanced wireless services, particularly to rural areas. The Commission must ensure that the 700 MHz auction is not another lost opportunity to provide wireless services to rural Americans.

Cellular South believes that the 700 MHz auction rules must include stringent geographic build out requirements to ensure that winning bidders use their newly-acquired spectrum to provide service to customers throughout their license area, and not just those customers in high-population areas who are easy to serve. The 700 MHz spectrum is a public resource and licensees should, to the extent practical, provide service to all those in the license area or allow another carrier that possibility.

The Commission should adopt a band plan in the Upper and Lower 700 MHz Band that includes a combination of small, medium and large geographic license areas to ensure that businesses of all sizes have a fair opportunity to bid on varied market sizes. This is the best way to replicate the success of the recent AWS auction, and this also will provide small and regional carriers an opportunity to acquire the spectrum they need to deliver broadband to their customers.

The Commission should implement the Frontline proposal to create a nationwide interoperable broadband network for public safety entities and a wholesale roaming provider for small and regional commercial operators. Public safety personnel need an interoperable broadband network to effectively manage emergencies and disasters. Additionally, small and regional commercial operators need a source that will provide high-speed data roaming agreements. The Frontline proposal offers solutions to both of these problems.

Finally, combinatorial bidding should not be a part of this auction because it favors very large bidders at the expense of small bidders and it introduces unnecessary complexity in the auction process. The Commission has the opportunity to adopt rules that will ensure competition during the auction and promote rural wireless build out after the auction. Combinatorial bidding would undermine those rules that encourage competition and advance wireless deployment.

There is a need for auction rules that will promote wireless services in rural areas. It is Cellular South's belief that the Commission can encourage build out in rural areas by implementing stringent geographic build out requirements and by utilizing a mix of geographic license sizes. Cellular South further believes that the 700 MHz auction offers an opportunity for the Commission to advance the needs of public safety as well as small and regional commercial operators by adopting the Frontline proposal. The 700 MHz auction is the last opportunity for the Commission to encourage wireless deployment in rural America, so it is important that the auction rules are designed in a manner that will achieve this goal.

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COMMENTS OF CELLULAR SOUTH LICENSES, INC.

Cellular South Licenses, Inc. ("Cellular South")[1], by and through its counsel, submits these comments in response to the rulemaking portion of the Federal Communication Commission's ("Commission" or "FCC") *Report and Order and Further Notice of Proposed Rulemaking*[2] in the above-captioned dockets.

[1] Cellular South is the nation's largest privately-held wireless carrier based on number of subscribers and serves all of Mississippi as well as portions of Florida, Alabama, Tennessee and Arkansas.
[2] *Report and Order and Further Notice of Proposed Rulemaking*, WT Docket No. 06-150, FCC 07-72, released April 27, 2007 ("*FNPRM*").

The upcoming auction for the 698-806 MHz ("700 MHz") Band presents an important and final opportunity for wireless carriers to acquire spectrum suitable for delivering advanced wireless services, particularly to rural areas. The Commission has the power to promote deployment in rural America by adopting auction rules that include incentives to build in historically underserved areas, creating band plans that fit multiple business models and allow targeted bidding, and avoiding auction rules that favor large participants over smaller participants. Additionally, the Commission has the ability to meet the communications needs of emergency personnel by putting in place rules that would allow a public-private partnership to build a nationwide interoperable broadband network for public safety users.

In these comments, Cellular South encourages the Commission to:

I. Apply stringent geographic build out requirements to the licenses to ensure that winning bidders use their newly-acquired spectrum to provide service to customers throughout their license area, and not just those customers in high-population areas who are easy to serve;

II. Adopt a band plan that uses a combination of Cellular Market Areas ("CMA"), Economic Areas ("EA") and Regional Economic Area Groupings ("REAG") in order to replicate the success of the recent AWS auction;

III. Implement the Frontline proposal to create a nationwide interoperable broadband network for public safety entities and a wholesale roaming provider for small and regional commercial operators;

IV. Avoid using combinatorial bidding in the auction because it favors very large bidders at the expense of small bidders and it introduces unnecessary complexity in the auction process.

I. The Uniqueness of the 700 MHz Spectrum Justifies the Use of Stringent Geographic Build Out Requirements

The 700 MHz spectrum is uniquely suited to provide wireless service in rural areas because of its propagation characteristics. This spectrum travels farther and penetrates obstructions better than other spectrum. For rural areas, this means that wireless carriers can serve greater geographic areas by using fewer towers than would otherwise be necessary if using another band of spectrum. These characteristics make the 700 MHz spectrum the ideal vehicle for delivering advanced wireless services – including broadband – to rural areas.

The wireless industry has acquired spectrum in many auctions and lotteries over the past several years, yet large portions of rural America are still without wireless service. Under current build out requirements, carriers have deployed wireless services in urban and suburban areas that promise very high profit margins. Unfortunately, history shows us that these same requirements allow licensees to build out cities and highways while neglecting rural and other hard-to-serve areas.

This auction provides the last opportunity to promote advanced wireless services in rural America. The 700 MHz spectrum is simply too valuable to be auctioned and then go unused. Failing to serve portions of a license area is more than an economic decision for carriers – it is a waste of a public resource. The public knows this and they do not approve of it. A recent poll found that, by a 2-to-1 margin, Americans disapprove of wireless carriers winning licenses and then failing to use the spectrum.[3] To discourage bidders from acquiring licenses and denying service to portions of the license areas, the 700 MHz auction rules should require that carriers meet reasonable geographic build out requirements.

[3] M2Z Networks, Resource Center, *Poll Shows Strong Support for M2Z Networks' Free Broadband Proposal*, http://www.m2znetworks.com/xres/uploads/documents/Polling%20Data.pdf (last visited May 22, 2007).

A. Geographic Build Out Requirements Can Promote Service in Rural Areas that Have Been Ignored under Current Performance Measures

Cellular South commends the Commission for its willingness to propose stringent geographic build out requirements in the 700 MHz auction.[4] Cellular South believes that this is the only way to ensure that rural areas receive advanced wireless services. The current state of basic wireless coverage in rural areas is clear evidence that a new performance requirement is needed for rural Americans to ever receive advanced wireless services. Fortunately, the 700 MHz spectrum is the perfect spectrum to carry geographic build out requirements because its characteristics allow for efficient deployment in high-cost areas.

The Commission has asked for comment on how to implement geographic build out requirements and, specifically, whether it should adopt a "keep what you use standard."[5] Cellular South believes that the Commission should use a proportionate "keep what you use" approach as proposed by the Rural Cellular Association ("RCA").[6] This method of measuring performance allows licensees the flexibility to serve the areas that fit their business plan while releasing the areas that they do not plan to serve. Under this plan, licensees could build out their target markets, yet other carriers would have an opportunity to acquire areas that the licensee decides not to serve. This prevents situations where people in rural areas are captive to a single licensee's business plan. Carriers who wish to serve cities and highways can still do that, but they will not have the ability to prevent other carriers from providing service in areas that the licensee ignores. This strikes the appropriate balance between a licensee's ability to choose the areas in which it will provide service, and rural consumers' rights to benefit from a public resource.

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[4] *FNPRM*, para. 212.
[5] *FNPRM*, para. 213.
[6] *See* RCA Comments in WT Docket No. 06-150 at 8-10; RCA Reply Comments in WT Docket No. 06-150 at 4-7.

Opponents of geographic build out requirements claim that it simply is not cost-effective to serve certain areas, and that this type of requirement will force carriers to build in uneconomic areas. However, geographic build out requirements do not force licensees to build networks in unprofitable areas. These requirements would not mandate that licensees build out their entire license area. Rather, failing to meet the geographic build out benchmarks simply means that the licensee would lose a portion of its license area. Not just any portion, either, but an area that the licensee has determined it cannot serve. In this situation, another carrier should have the opportunity to offer coverage in the unserved area. If it is truly uneconomic to provide coverage in the unserved areas, then no other carrier will enter that market and the licensee has given up nothing. If, on the other hand, it is simply inconvenient for the licensee to provide coverage in the unserved areas, residents in these areas should not be captive to a single licensee's business plan. Cellular South believes that, when a licensee fails to provide coverage in a given area after a number of years, other carriers should have an opportunity to provide service to the residents in that area.

B. Coverage Should Be Measured According to Uniform Standards but Should Not Include Large Tracts of Government-Owned Land

The Commission takes the correct approach by proposing that licensees demonstrate compliance with benchmarks by filing maps and other supporting documentation with the Commission.[7] Additionally, Cellular South encourages the Commission to adopt some uniform standard of measuring the signal level in area. Without a uniform standard, there is no way to guarantee that a specific stated level of coverage in one area is equal to a corresponding level of stated coverage in another area. In other words, licensees will have every incentive to choose the technology that purports to show broad geographic coverage, even though actual coverage based

[7] *FNPRM*, para. 218.

on a usable wireless signal may be much less. Cellular South suggests that coverage should be measured by mapping areas that provide a sufficient signal level for uplink and downlink transmissions for those licenses that have paired spectrum and/or use the spectrum for two-way communication. This will ensure that customers in "covered" areas actually have a usable wireless signal.

There will be certain portions of license areas that carriers simply cannot cover such as areas in Alaska that encompass large amounts of government-owned land. The Commission proposes to exclude all government land from relevant service areas when determining whether a carrier has satisfied build out requirements.[8] Cellular South proposes that any exclusion be limited to parcels of government-owned land that exceed a designated amount of acreage. Any government-owned land that is less than the designated acreage should be considered *de minimis* and not subject to exclusion from the relevant service area. This exception should apply to large parcels of government-owned land such as national parks, and not to small parcels such as industrial parks that are owned by state or local governments.

Opponents of geographic build out requirements argue that these requirements are unmanageable for REAG licenses which cover very large geographic areas. Cellular South believes that the Commission has proposed a reasonable method of implementing geographic build out requirements in the REAG license areas by basing coverage on build out in the corresponding EAs within each REAG.[9] This affords the REAG licensee the advantage of holding a license for a large geographic area while allowing the flexibility of measuring performance against coverage in smaller geographic areas. Cellular South commends the

[8] *FNPRM*, para. 213.
[9] *FNPRM*, paras. 217, 219.

Commission for this balanced approach that addresses the need to ensure broad coverage while not being overly burdensome to REAG licensees.

C. Other Carriers Should Be Given the Opportunity to Serve Areas that the Original Licensee Does Not Serve

Ultimately, there may be portions of license areas in which it is not feasible to provide wireless service. However, this should not be a determination that only one carrier makes. Current performance requirements allow a single carrier to decide whether an area receives service because the original licensee keeps the license for the entire area as long as it offers "substantial service" in a portion of the license area. This prevents other carriers from offering service in areas that the original licensee has not built out, no matter how long the time. With geographic build out requirements, licensees must build in their license areas or let another carrier have an opportunity after a reasonable period of time. People living in unserved areas will be denied wireless services only if all carriers determine that it is not feasible to provide coverage, but it is not the decision of a single licensee.

If a bidder is concerned about its ability to satisfy geographic build out requirements, it has two options. The first option is to bid on licenses that cover manageable geographic areas. In other words, carriers who doubt their ability to provide geographic coverage in large areas can bid on small areas that they know they can cover. This is one reason that it makes sense to adopt a band plan that includes a large number of licenses covering small geographic areas – it gives carriers an opportunity to bid on licenses covering areas they know they can serve.

A second option for bidders who are concerned about satisfying geographic build out requirements is to discount their bids to reflect the potential that they will give up a portion of their license at some point several years in to the future. This should be a relatively easy exercise because licensees can choose in advance the areas that they will likely release at some

point in the future. Presumably, these would be the areas that the licensee never intended to serve in the first place, so the licensee only relinquishes the ability to prevent another carrier from serving these customers.

Cellular South supports strong geographic build out requirements as one method by which the Commission can promote advanced wireless services in rural America.

II. The Commission Should Establish Band Plans That Use a Mix of Geographic License Areas

Cellular South further commends the FCC for its decision to adopt a mix of small, medium and large geographic license areas for the 700 MHz auction. Cellular South has strongly advocated using a mix of small, medium and large geographic license areas[10] and is pleased that the FCC has recognized the importance of using a mix of license sizes in the 700 MHz auction. It is important for the Commission to ensure that bidders of all sizes have a fair opportunity to compete for licenses of various geographic sizes in both the Lower 700 MHz Band and the Upper 700 MHz Band.

Small geographic license areas allow bidders to acquire precise locations without also acquiring – and excluding other carriers from serving – those additional areas that would otherwise accompany the target locations in a larger license area. For example, a carrier could bid on licenses for metropolitan areas without also acquiring rural areas that the carrier does not intend to serve. At the same time, bidders who value rural areas could compete for those licenses without competing against the bidder who only wants urban areas. This is true for incumbents as well as new entrants.

[10] *Digital Future of the United States: Part III: Spectrum Opportunities and the Future of Wireless*, Before the Subcommittee on Telecommunications and the Internet of the House Committee on Energy and Commerce, 110th Congress (April 19, 2007) (Written Testimony of Victor H. "Hu" Meena, President, Cellular South Licenses, Inc.).

When discussing new entrants, it is important to remember that any new carrier in an area is a new entrant and has the potential to increase competition. A carrier does not need a national footprint to be a new entrant and, particularly when a carrier acquires large license areas, there is no guarantee that a national new entrant will offer service or competition in rural portions of its license area.

In most rural areas, small and regional operators are the "new entrants" that will acquire licenses in new locations and provide service to those customers. Small carriers are located in the communities that they serve, which gives them a vested interest in their license areas. As these carriers acquire 700 MHz spectrum, they are capable of serving as an alternative broadband platform or "third pipe" to the customer.

Carriers with nationwide footprints have failed to provide basic wireless services to many portions of rural America thus far, so small and regional carriers have undertaken the duty to serve these customers. There is no reason to believe that a new entrant with a nationwide footprint would deploy advanced wireless services in those areas where national carriers have failed to provide even basic wireless services. Accordingly, there is no justification for adopting an unbalanced band plan of large license areas in an effort to promote the business plan of new entrants that may or may not participate in the auction, and likely will not serve rural portions of their license areas even if they do acquire spectrum.

A. Lower 700 MHz Band

With regard to the 698-746 MHz ("Lower 700 MHz") Band, the Commission proposed not to change the spectrum blocks as currently sized and aligned.[11] Cellular South strongly supports this proposal.

[11] *FNPRM*, para. 178.

The Commission further asked for comment as to whether it would serve the public interest to continue to license the E Block on a REAG basis, whether it would serve the public interest to auction the A Block on an EA basis, and whether licensing the B Block on a Cellular Market Area ("CMA") basis would allow opportunities for existing C Block licensees to acquire new B Block licenses and then aggregate the licenses to create larger spectrum blocks.[12] Cellular South strongly supports the Commission's band plan for the 700 MHz Lower Band, and believes that the answer to each of these questions is yes.

By auctioning the A Block as a 12 MHz paired block on an EA basis, the Commission would allow large, medium and even some small carriers an opportunity to bid on these licenses. This promotes competition for the licenses and increases the likelihood that bidders will acquire licenses for areas that they intend to serve, both of which serve the public interest.

Likewise, by auctioning the B Block on a CMA basis, the Commission would promote the broadest possible participation from bidders of all sizes. CMAs allow large carriers to target the specific areas that they genuinely intend to serve, while allowing small carriers and new entrants an opportunity to acquire licenses for manageable geographic areas. As noted in the *FNPRM*, many small and rural service providers are existing license holders for the CMA-sized C Block.[13] Allocating the B Block as CMAs would allow these small and rural providers an opportunity to acquire adjacent spectrum in CMA license areas in order to offer advanced wireless services to customers in historically underserved areas.

Finally, the Commission is right to auction the unpaired E Block on a REAG basis. Because this block is unpaired, it is likely that the spectrum will be used for applications that involve one-way communication such as video streaming to mobile devices. Operators

[12] *FNPRM*, paras. 179-81.
[13] *FNPRM*, para. 181.

developing these services have a need for licenses that cover very large geographic areas. Because of the limited applications for unpaired spectrum, it is far less likely that these licenses will be undervalued in the auction by using license sizes that do not allow small and mid-sized carriers to participate. Therefore, it would serve the public interest to auction the E Block on a REAG basis.

B. Upper 700 MHz Band

Cellular South's concerns in the 747-762 and 777-792 MHz ("Upper 700 MHz") Band mirror its concerns in the Lower Band. Bidders of all sizes should have an opportunity to bid on a mix of geographic license areas in the Upper 700 MHz Band, just as in the Lower Band. This will encourage competition and promote the expansion of wireless services to rural areas. As noted above, small license areas allow broad participation and targeted bidding, both of which promote build out by allocating licenses to the bidders that are most likely to actually provide service throughout the license area. Therefore, Cellular South supports a mix of small, medium and large license areas in the Upper 700 MHz Band.

As a general point, Cellular South favors proposals that divide the Upper 700 MHz Band into three blocks of spectrum because these proposals provide opportunities for carriers with many different business plans. It is certainly possible that some bidders will require a very large block of spectrum to implement their business plan. However, these bidders should compete to acquire that spectrum rather than the Commission adopting a band plan that is overly-tailored for a particular business plan. Cellular South believes that those proposals having three blocks of spectrum in the Upper 700 MHz Band offer the broadest potential for participation.

1. Proposals Based on Elimination of the Guard Band B Block

The Commission considers two proposals for licensing spectrum blocks if the Guard Band B Block in the Upper 700 MHz Band is eliminated.

a. Proposal 1

The Commission's first proposal involves a C Block and a D Block in the Upper 700 MHz Band, both of which would be licensed on a REAG basis. Under this proposal, the C Block would contain 22 MHz of spectrum and the D Block would contain 12 MHz of spectrum. The Commission seeks comment on this proposal generally.[14]

Consistent with its view on the need for a broad mix of geographic license sizes, Cellular South opposes this plan that would only use very large REAG geographic areas for licenses in the Upper 700 MHz Band. By using REAG geographic areas for these licenses, the Commission would effectively prevent small and regional operators from bidding on any spectrum in the Upper Band. This artificially excludes bidders who may place a higher value on all or parts of these licenses but who are unable to bid on licenses that cover several states.

A second problem with this plan is that it consolidates 22 MHz of spectrum into a single block. As discussed above, Cellular South opposes plans that consolidate 22 MHz of spectrum into a single block because these plans artificially restrict competition for the spectrum.

A third fault with this plan is the concept of using combinatorial bidding for the C Block licenses. Combinatorial bidding is problematic because of its complexity, because it artificially favors larger bidders over smaller bidders, and because it allows the possibility of "gaming" the system to acquire desirable licenses at a discount. Cellular South further discusses the problems with combinatorial bidding below.[15]

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[14] *FNPRM*, paras. 190-91.
[15] *See* Section IV.

The Commission should not adopt this proposal for licensing spectrum in the Upper 700 MHz Band. The *FNPRM* contains other proposals that would promote a more efficient allocation of spectrum and that would maximize potential revenue.

b. Proposal 2

The second proposal put forth by the Commission would "approximate the balanced mix of geographic licensing sizes adopted by the Commission in the recent AWS-1 auction" by allocating the Upper 700 MHz spectrum into an 11 MHz C Block licensed on either a CMA basis or an EA basis, an 11 MHz D Block licensed on an EA basis, and a 12 MHz E Block licensed on a REAG basis.[16] The Commission asks for comment as to whether this proposal would provide interested bidders with the flexibility to aggregate smaller markets, whether the plan would offer new entrants an opportunity to provide broadband, and whether to consider licensing these blocks on a different geographic basis.[17]

Cellular South believes that this proposal would, indeed, provide interested bidders an opportunity to aggregate smaller markets. Small license areas allow broad participation by bidders with many different business plans. With small license areas, bidders of all sizes can participate in the auction, all carriers can bid on the precise areas they intend to serve, and bidders have the flexibility to aggregate smaller markets. However, all of these advantages are lost when spectrum is apportioned into blocks that use large geographic license areas because it is not possible for auction participants to bid on small portions of licenses covering large areas.

Cellular South further believes that this proposal would offer multiple new entrants an opportunity to provide broadband services. Under this band plan, new entrants would have the flexibility to acquire licenses that more directly correspond to their target markets. For instance,

[16] *FNPRM*, para. 192.
[17] *FNPRM*, para. 193.

a new entrant could bid on EAs in locations where it has identified several adjacent target markets, yet it also could bid on particular CMAs to selectively acquire licenses for specific, individual markets. This plan also would allow a large new entrant to acquire a national footprint by aggregating a number of small and medium license areas.

Finally, the Commission asks whether to consider licensing these blocks on a different geographic basis.[18] Cellular South supports licensing the C Block on a CMA basis, the D Block on an EA basis, and the E Block on an REAG basis or as a national license if the Commission adopts the Frontline proposal. As stated in more detail below, Cellular South supports the Frontline proposal.[19] If the Commission does adopt the Frontline proposal, another possibility to consider is to reduce the size of the E Block to 10 MHz, as requested by Frontline, and increase the size of the C Block and D Block to 12 MHz each.

2. Proposals Based on Modified 700 MHz Guard Bands

The Commission stated that it has reached a tentative conclusion to reject the idea of modifying the guard bands, as proposed by Access Spectrum/Pegasus if the guard band incumbents cannot come to agreement on relocation and related service issues.[20] Cellular South does not address the unique concerns of guard band licensees or the potential for these licensees to agree on relocating guard bands or sharing spectrum. However, it is important to consider whether negotiations between these parties will delay the auction. If the parties cannot agree, then the Commission should abandon any proposal that involves modifying the guard bands.

[18] *FNPRM*, para. 193.
[19] *See* Section III.
[20] *FNPRM*, para. 199.

a. Proposal 3

Under this proposal, initially offered by Access Spectrum/Pegasus, the C Block would contain 22 MHz of spectrum and the D Block would contain 10 MHz of spectrum. This proposal does not address geographic license sizes.[21]

It is difficult to comment on the merits of this proposal because it does not identify potential geographic license areas for each block. However, Cellular South opposes this proposal, at least in part, for one of the same reasons it opposes Proposal 1 above. That is, this plan would combine 22 MHz of spectrum into a single block. In an auction that could surpass 200 bidders, it is likely that only a handful of incumbents and new entrants would have a realistic chance of bidding on a 22 MHz block of spectrum. Therefore, any proposal that includes a block of spectrum that large would artificially reduce competition for the license. The better alternative would be to divide this single block of spectrum into two blocks.

b. Proposal 4

The Commission's fourth proposal would divide the Upper 700 MHz Band in to three blocks of spectrum with roughly equal spectrum allocations. One advantage of this plan is that the Commission can incorporate the Frontline proposal by making relatively minor modifications to the proposed licenses.

i. Without Frontline

Without adopting the Frontline proposal, this band plan would allocate the spectrum into an 11 MHz C Block licensed on a REAG basis, an 11 MHz D Block licensed on a REAG basis, and a 10 MHz E Block licensed on an EA basis. The Commission asks for comment on whether

[21] *FNPRM*, para. 196.

this proposal will allow prospective bidders to combine the C and D Blocks to create a 22 MHz block and also asks for specific comment on combinatorial bidding for the C and D Blocks.[22]

Cellular South opposes this proposal. It is true that this proposal would allow a handful of bidders to combine the C and D Blocks to create a 22 MHz block. However, as stated above, Cellular South believes that the Upper 700 MHz Band should have a mix of small, medium and large license areas to further encourage efficient spectrum allocation.[23]

With regard to the proposed combinatorial bidding for the C and D Blocks, Cellular South opposes this type of auction mechanism. Combinatorial bidding favors large carriers at the expense of small participants and adds needless complexity to the auction process. Cellular South further discusses its opposition to combinatorial bidding in more detail below.[24]

ii. With Frontline

The Commission also considers this band plan in the context of the Frontline proposal. Under this plan, spectrum would be allocated into an 11 MHz C Block licensed on a REAG basis, an 11 MHz D Block licensed on an EA basis, and a 10 MHz E Block designated as a nationwide license. The Commission seeks comment generally on this proposal.[25]

Cellular South strongly supports this proposal. As discussed in more detail below, Cellular South favors the Frontline proposal because of the need for a nationwide interoperable public safety broadband network and the need for a nationwide wholesale roaming provider.[26] If the Commission adopts the Frontline proposal, this band plan is a good way to allocate spectrum in the Upper 700 MHz Band.

[22] *FNPRM*, para. 202.
[23] *See* Section II.B.1.b.
[24] *See* Section IV.
[25] *FNPRM*, para. 203.
[26] *See* Section III.

Although this band plan would not license any Upper 700 MHz Band spectrum as CMAs (thus limiting the opportunity for most carriers to bid on spectrum in this band), the plan does include one license with EA designation. This will allow some degree of participation from small and regional carriers who will be unable to bid on the remaining REAG license. Furthermore, those bidders who stand to benefit most from CMA licenses also have the potential to benefit from the Frontline proposal. If the Lower 700 MHz Band includes a block of spectrum that is licensed on a CMA basis and the Upper 700 MHz Band includes both a block of spectrum licensed on an EA basis as well as the Frontline proposal, small and regional carriers will have an opportunity to participate in the auction and to secure a nationwide roaming partner. This provides the best opportunity for the Commission to promote advanced wireless services in rural areas and to foster competition in the wireless industry. The ultimate beneficiary under this proposal is the rural consumer.

Additionally, this plan offers REAG licenses for the largest bidders, and those bidders can compete for EA licenses in those areas where they need additional spectrum. Very large carriers will have an opportunity to acquire REAG licenses while only bidding against a handful of other participants. In areas where the large carriers want additional spectrum, EA licenses will be available for bidding.

This proposal offers the best plan for the Upper 700 MHz Band. When combined with the Commission's proposal for the Lower 700 MHz Band, it provides an equitable allocation of spectrum and it allows a large number of bidders with diverse business plans to participate in the auction. This will maximize competition for the 700 MHz licenses and increase the likelihood of licenses going to bidders that intend to build out the entire license area. The ultimate beneficiary under this plan is the consumer, particularly those in rural America.

c. Proposal 5

The fifth proposal for the Upper 700 MHz Band would allocate the available spectrum into an 11 MHz C Block licensed on a REAG basis, an 11 MHz D Block licensed on an EA basis, and a 10 MHz E Block licensed on an EA basis. Additionally, it would allow combinatorial bidding for C Block.[27] The Commission asks for comment on the proposal generally, on the specific license areas selected for the spectrum blocks, on changes if the Commission adopts a proposal like Frontline, and on the impact of the plan on potential new entrants.[28]

Cellular South generally supports this proposal because it offers three, roughly equal blocks of spectrum and because two of the spectrum blocks are divided into EA geographic license sizes which will allow a large number of bidders to participate. However, the proposal could be improved by auctioning one of the blocks as CMAs. This would allow small carriers to bid on spectrum in the Upper 700 MHz Band, which would promote rural wireless build out. As discussed above, large carriers simply do not make it a priority to serve rural areas. If advanced wireless services – including broadband – are ever to reach rural America, it will be small and rural carriers who deliver the technology.

This band plan would allow the Commission to adopt the Frontline proposal by changing the designation of the E Block from an EA geographic basis to a nationwide license. Cellular South supports the Frontline proposal, and strongly encourages the Commission to adopt this band plan with the Frontline proposal as more fully discussed above.[29]

Under this plan, new entrants have the opportunity to bid on REAG licenses as well as EA licenses. Very large carriers will have an opportunity to acquire REAG licenses while only

[27] *FNPRM*, paras. 204, 206.
[28] *FNPRM*, para. 206.
[29] *See* Section II.B.2.b.ii.

bidding against a handful of other participants. In areas where the large carriers want additional spectrum, EA licenses will be available for bidding.

Finally, one problem with this proposal is the use of combinatorial bidding for the C Block. Cellular South reiterates the problems inherent in auctions with combinatorial bidding and encourages the Commission to abandon the idea in this proposal, even if it were confined to only one block of very large license areas. Cellular South's opposition to combinatorial bidding is further discussed below.[30]

III. The Commission Should Incorporate Frontline's Proposal in the Auction Rules

As stated throughout these comments, Cellular South supports the Frontline proposal. Frontline's plan offers solutions to two spectrum problems: the need for a nationwide interoperable public safety broadband network, and the need for a nationwide data roaming provider that will cooperate with small and regional carriers.

The need for an interoperable public safety network has been well-documented throughout this proceeding. As communication technology advances and public safety needs evolve, it makes sense for any nationwide public safety network to be a broadband network. Unfortunately, it is not likely that the public safety community could build such a network without participation from the private sector. The Frontline proposal offers a reasonable plan to create an interoperable broadband network for public safety entities.

Additionally, Frontline's proposal would provide a much-needed broadband roaming partner for small and regional wireless providers. Today, small and regional carriers find it increasingly difficult, if not outright impossible, to negotiate high-speed data roaming agreements with national wireless providers. This hurts the small carriers but, more importantly, it hurts the rural consumer. Wireless users move about and expect their wireless devices to work

[30] *See* Section IV.

just as well when traveling as they do in the user's home coverage area. With Frontline's proposal, small and regional carriers would have the ability to guarantee this type of coverage to their customers.

Because the Frontline proposal is so important to both public safety and commercial users, it is important that the licensee for this proposed block of spectrum use the license as intended. This is the reason that Frontline includes very restrictive license conditions on the proposed E Block. Without these restrictions, any bidder could acquire the license and refuse to build it out as intended or, at the very least, not use good faith in negotiating with public safety and commercial operators. Frontline has developed a strong set of requirements for the proposed E Block licensee[31], and it is important that the Commission implement these requirements if it adopts the Frontline proposal.

The Frontline proposal offers solutions to the interoperability needs of the public safety community and the broadband roaming needs of small and regional commercial operators. Cellular South supports Frontline's proposal and encourages the Commission to adopt the proposal with license conditions that ensure the E Block licensee will put the spectrum to its intended use.

IV. Combinatorial Bidding Would Offset Other Pro-Competitive Auction Rules

Finally, it is important for the Commission to ensure that any rules promoting small carrier participation are not offset by other auction rules. In particular, combinatorial bidding could undo all the benefits of having small geographic license areas.

First, combinatorial bidding favors the largest bidders. Large bidders can group many licenses together and place bids that small competitors could only hope to match (or exceed) by

[31] *See* Letter from John Blevins, Counsel, Frontline Wireless, LLC to Marlene H. Dortch, Secretary, Federal Communications Commission, (March 26, 2007) WT Docket No. 06-150, WT Docket No. 06-169, PS Docket No. 06-229.

bidding together. However, small bidders will not know of combinatorial bids until the auction begins, which is long after small participants could coordinate efforts without violating the Commission's anti-collusion rules. The end result is that large bidders have an opportunity to acquire licenses at significant discounts.[32]

Further, combinatorial bidding introduces an additional level of complexity to the auction because it increases the number of bid possibilities in each round. Small carriers generally find it much more difficult than large carriers to dedicate significant resources to spectrum auctions, so this added complexity puts small carriers at another considerable disadvantage.

Combinatorial bidding also introduces the problem of reactivating dormant bids. A collection of small bidders who believed that they had been outbid on individual licenses by a package bid may find their "losing" bid active again if another losing bidder increases its bid by a margin that surpasses the package bid amount. In this circumstance, auction participants can find themselves with the high bid on licenses that they had given up many rounds earlier. This creates obvious problems because bidders make decisions in each subsequent round based on the results of prior rounds.

Ultimately, combinatorial bidding adds more problems to the auction than it solves including needless complexity and delay. Combinatorial bidding benefits the largest carriers who are able to bid on numerous licenses across the country at the expense of smaller carriers who focus on local markets and contiguous licenses. Whatever theoretical appeal there may be with combinatorial bidding, in practice it could virtually eliminate the opportunity for smaller and rural carriers to acquire licenses in the 700 MHz auction. To ensure that the auction proceeds smoothly and quickly, the Commission should wholly reject combinatorial bidding.

[32] *See, e.g.*, Letter from Charles C. Townsend, President & CEO, Aloha Partners, LP to Marlene H. Dortch, Secretary, Federal Communications Commission, (March 16, 2007) WT Docket No. 06-150, CC Docket No. 94-102, WT Docket No. 01-309.

V. Conclusion

Small and regional carriers are eager to provide advanced wireless services to rural Americans. The FCC's rules for the 700 MHz auction will determine whether carriers have this opportunity. Cellular South respectfully asks that the Commission establish meaningful geographic build out requirements for the 700 MHz licenses, adopt a band plan that uses a mix of CMA, EA and REAG geographic license areas in both the Lower 700 MHz Band and Upper 700 MHz Band, implement the Frontline proposal, and avoid using combinatorial bidding which favors large bidders at the expense of small bidders.

Respectfully Submitted,

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